

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

G.D. SEARLE LLC AND PFIZER ASIA
PACIFIC PTE. LTD.,

Plaintiffs,

vs.

LUPIN PHARMACEUTICALS, INC., TEVA
PHARMACEUTICALS USA, INC., MYLAN
PHARMACEUTICALS INC., WATSON
LABORATORIES, INC., APOTEX INC.
AND APOTEX CORP.,

Defendants.

CASE NO. 2:13-cv-121

**DECLARATION OF JEFFREY MARTIN IN SUPPORT OF (1) PLAINTIFFS'
MEMORANDUM IN OPPOSITION TO MYLAN'S MOTION FOR SUMMARY
JUDGMENT OF PATENT INVALIDITY; AND (2) PLAINTIFFS' MEMORANDUM IN
OPPOSITION TO WATSON LABORATORIES, INC.'S, LUPIN
PHARMACEUTICALS, INC.'S, APOTEX INC.'S AND APOTEX CORP.'S JOINT
MOTION FOR SUMMARY JUDGMENT OF INVALIDITY OF
U.S. PATENT NO. RE 44,048**

I, Jeffrey Martin, hereby state:

1. I am an associate with the law firm of Kaye Scholer LLP, 425 Park Avenue, New York, NY 10022, attorneys for Plaintiffs G.D. Searle LLC and Pfizer Asia Pacific Pte. Ltd. in the above matter. I have been admitted pro hac vice in the above captioned case. I make the following statements based on personal knowledge.

2. Attached as **Exhibit 1** is a true and correct copy of Plaintiffs' document production Bates range PFZCEDV_1246414-PFZCEDV_1246417, containing the July 12, 1994 Office Action in the prosecution history of U.S. Patent Application 08/160,594.

3. Attached as **Exhibit 2** is a true and correct copy of Plaintiffs' document production Bates range PFZCEDV_1246421-PFZCEDV_1246438, containing the September 14, 1994 Amendment and Response to Restriction and Election Requirements in the prosecution history of U.S. Patent Application 08/160,594.

4. Attached as **Exhibit 3** is a true and correct copy of Plaintiffs' document production Bates range PFC02028070-PFC02028198, containing the Patent Application Serial Number 08/457,059.

5. Attached as **Exhibit 4** is a true and correct copy of Plaintiffs' document production Bates range PFC02029254-PFC02029273, containing the April 8, 1997 Supplemental Amendment in the prosecution history of U.S. Patent Application 08/648,113.

6. Attached as **Exhibit 5** is a true and correct copy of Plaintiffs' document production Bates range PFH_0000046-PFH_0000049, containing the September 5, 2008 Reissue Application Declaration by the Assignee in the prosecution history of U.S. Patent Application 12/205,319.

7. Attached as **Exhibit 6** is a true and correct copy of Plaintiffs' document production Bates range PFH_0001608-PFH_0001614, containing the May 12, 2009 Office Action in the prosecution history of U.S. Patent Application 12/205,319.

8. Attached as **Exhibit 7** is a true and correct copy of Plaintiffs' document production Bates range PFH_0010285-PFH_0010295, containing the June 26, 2009 Response to Office Action in the prosecution history of U.S. Patent Application 12/205,319.

9. Attached as **Exhibit 8** is a true and correct copy of Plaintiffs' document production Bates range PFH_0012319-PFH_0012320, containing the July 30, 2009 Interview Summary in the prosecution history of U.S. Patent Application 12/205,319.

10. Attached as **Exhibit 9** is a true and correct copy of excerpts from the transcript of the November 7, 2013 Deposition of Scott Williams.

11. Attached as **Exhibit 10** is a true and correct copy of excerpts from the transcript of the November 13, 2013 Deposition of Arthur Olson.

12. Attached as **Exhibit 11** is a true and correct copy of Plaintiffs' document production Bates range PFH_0019615-PFH_0019639, containing the May 27, 2010 Reply to Office Action in the prosecution history of U.S. Patent Application 12/205,319.

13. Attached as **Exhibit 12** is a true and correct copy of Plaintiffs' document production Bates range PFH_0025422-PFH_0025424, containing the October 27, 2010 Interview Summary in the prosecution history of U.S. Patent Application 12/205,319.

14. Attached as **Exhibit 13** is a true and correct copy of Plaintiffs' document production Bates range PFH_0025425-PFH_0025427, containing the March 1, 2011 Interview Summary in the prosecution history of U.S. Patent Application 12/205,319.

15. Attached as **Exhibit 14** is a true and correct copy of Plaintiffs' document production Bates range PFH_0025444-PFH_0025447, containing the March 9, 2011 Reissue Application Declaration by the Assignee in the prosecution history of U.S. Patent Application 12/205,319.

16. Attached as **Exhibit 15** is a true and correct copy of Plaintiffs' document production Bates range PFH_0025429-PFH_0025442, containing the March 9, 2011 Response Accompanying RCE in the prosecution history of U.S. Patent Application 12/205,319.

17. Attached as **Exhibit 16** is a true and correct copy of Plaintiffs' document production Bates range PFH_0029297-PFH_0029304, containing the July 19, 2011 Statement of

Substance of the Interview, Amendment and Supplemental Response in the prosecution history of U.S. Patent Application 12/205,319.

18. Attached as **Exhibit 17** is a true and correct copy of Plaintiffs' document production Bates range PFH_0030567-PFH_0030575, containing the August 4, 2011 Office Action in the prosecution history of U.S. Patent Application 12/205,319.

19. Attached as **Exhibit 18** is a true and correct copy of Plaintiffs' document production Bates range PFH_0030611-PFH_0030614, containing the October 11, 2011 Reissue Application Declaration by the Assignee in the prosecution history of U.S. Patent Application 12/205,319.

20. Attached as **Exhibit 19** is a true and correct copy of Plaintiffs' document production Bates range PFH_0030691-PFH_0030698, containing the December 29, 2011 Office Action in the prosecution history of U.S. Patent Application 12/205,319.

21. Attached as **Exhibit 20** is a true and correct copy of Plaintiffs' document production Bates range PFH_0036731-PFH_0036733, containing the February 16, 2012 Interview Summary in the prosecution history of U.S. Patent Application 12/205,319.

22. Attached as **Exhibit 21** is a true and correct copy of Plaintiffs' document production Bates range PFH_0036763, PFH_0036762 and PFH_0036734-PFH_0036751, containing the June 6, 2012 Response in the prosecution history of U.S. Patent Application 12/205,319.

23. Attached as **Exhibit 22** is a true and correct copy of the October 11, 2013 Initial Expert Report of Thomas M. Zizic, M.D.

24. Attached as **Exhibit 23** is a true and correct copy of the November 15, 2013 Supplemental Expert Report of Thomas M. Zizic, M.D.

25. Attached as **Exhibit 24** is a true and correct copy of excerpts from the transcript of the November 7, 2013 Deposition of John J. Talley, Ph.D. (Filed Under Seal).

26. Attached as **Exhibit 25** is a true and correct copy of the October 11, 2013 Expert Report of Bruce R. Carr, M.D.

27. Attached as **Exhibit 26** is a true and correct copy of the October 11, 2013 Expert Report of Roger P. Smith, M.D.

28. Attached as **Exhibit 27** is a true and correct copy of *Cramp*, Merriam-Webster, www.merriam-webster.com/dictionary/cramp (last visited Dec. 12, 2013).

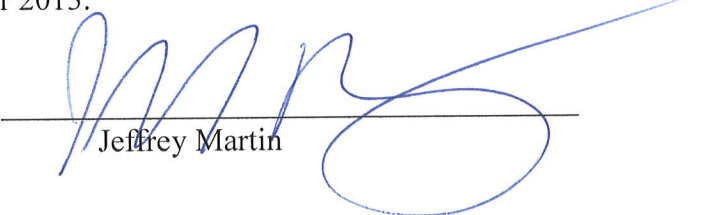
29. Attached as **Exhibit 28** is a true and correct copy of Plaintiffs' document production Bates range PFZCEDV_0757677-PFZCEDV_0757705, containing U.S. Patent No. 5,563,165.

30. Attached as **Exhibit 29** is a true and correct copy of Plaintiffs' document production Bates range PFH_0025419-PFH_0025421, containing the April 22, 2010 Interview Summary in the prosecution history of U.S. Patent Application 12/205,319.

31. Attached as **Exhibit 30** is a true and correct copy of excerpts from the transcript of the November 13, 2013 Deposition of Joseph W. Bullock.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 13 day of December 2013.



Jeffrey Martin

Dated: December 13, 2013

Respectfully submitted,

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically e-mail notification of such filing to:

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